

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

MAY 23 2008

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

LUIS C. DEGUZMAN,

Defendant - Appellant.

No. 06-10655

D.C. No. CR-04-01674-DCB

MEMORANDUM\*

Appeal from the United States District Court  
for the District of Arizona  
David C. Bury, District Judge, Presiding

Submitted May 20, 2008\*\*

Before: PREGERSON, TASHIMA, and GOULD, Circuit Judges.

Luis C. DeGuzman appeals from the 48-month sentence imposed following his jury-trial conviction for conspiracy to file false, fictitious or fraudulent claims

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\* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

\*\* The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

with an agency of the United States, in violation of 18 U.S.C. § 286. We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

DeGuzman contends that the district court violated his due process rights by enhancing his sentence pursuant to U.S.S.G. § 3B1.1(c), based on a preponderance of the evidence, rather than proof beyond a reasonable doubt. This contention is foreclosed. *See United States v. Clark*, 452 F.3d 1082, 1085-86 (9th Cir. 2006) (rejecting constitutional challenges to use of the preponderance of the evidence standard for resolving factual disputes at sentencing).

DeGuzman also contends that the district court should not have applied the enhancement because there was insufficient evidence that the people whom he supervised were “participants” as defined by the Guidelines. We conclude that the district court did not clearly err by determining that DeGuzman’s assistant and two of his clients were “criminally responsible for the commission of the offense.” *See* U.S.S.G. § 3B1.1(c), cmt. n.1; *see also United States v. Syrax*, 235 F.3d 422, 426-28 (9th Cir. 2000).

**AFFIRMED.**